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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                 | CONFIRMATION NO.       |
|---|-------------|----------------------|-------------------------------------|------------------------|
| 10/062,366  | 01/31/2002  | Michael Wayne Brown  | AUS920010651US1                     | 2914                   |
| 45440   | 7590        | 05/03/2007           |                                     |                        |
| IBM CORPORATION (SS)<br>C/O STREETS & STEELE<br>13831 NORTHWEST FREEWAY, SUITE 355<br>HOUSTON, TX 77040 |             |                      | EXAMINER<br>APPLE, KIRSTEN SACHWITZ |                        |
|   |             |                      | ART UNIT<br>3693                    | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>05/03/2007             | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/062,366

Applicant(s)

BROWN ET AL.

Examiner

Kirsten S. Apple

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See, 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper, No(s)/Mail Date. _____                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## Detailed Action

This action is in response to the application response filed on 2/13/07.

### *Claim Rejections - 35 USC § 102*

The Examiner has read and reviewed all of the information provided by the Applicant.

The examiner rejects as final claims 1-47 under 35 USC 102.

The Applicant attention is re-drawn to the following:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Zingher (US Patent 5,731,575).

**Re claim 1, 21 & 40:** Zingher discloses:

*A method, program product and system detecting unauthorized use of an account (see Zingher, abstract), comprising:*

*Receiving a first request from a vendor to authorize (see Zingher, Figure 7, Item 50, it is inherent that the vendor in this case the ATM requested a pin before "access number entered")*

*Sending a second request for authorization to an account holder (see Zingher, Figure 7, Item 50)*

*Receiving a first electronic response from account holder providing a PIN (normal or distressed) (see Zingher, Figure 7, Item 55 or 65)*

*Initiating remedial action if duress PIN is received (see Zingher, Figure 7, Item 70)*

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**Re claim 2, 22 & 41:** Zingher discloses:

*Request approval of account transaction (see Zingher, Figure 7, Item 50)*

*Receiving a second response indicating approval from account holder (see Zingher, Figure 7, Item 55)*

**Re claim 3, 23 & 42:** Zingher discloses:

*First request contains information selected from:*

*Account number, (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*An amount to be charged against the account,*

*An amount to be debited from the account,*

*A vendor code*

**Re claim 4, 24 & 43:** Zingher discloses:

*Retrieving information from validation database, selected from*

*An account holder record (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*A vendor record*

**Re claim 5 & 25:** Zingher discloses:

*Account holder record contains information selected from*

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*The account number, (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*A contact address,*

*A duress personal information number*

*A normal personal identification number*

*Account holder preferences*

*Billing address*

**Re claim 6 & 26:** Zingher discloses:

*Vendor record contains information selected from*

*Vendor code*

*(see Zingher, Figure 1– it is inherent that every ATM has it's own unique vendor code based on the owner of the ATM and the location)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*Vendor address*

*Vendor preferences,*

*Business type*

**Re claim 7 & 27:** Zingher discloses:

*Account is selected from*

*Transaction card account, (see Zingher, Figure 1, item 20)*

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*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*Personal account*

*Business account*

**Re claim 8 & 28:** Zingher discloses:

*Account transaction is selected from*

*Debiting an account for good, services or cash (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts credit and debit cards and dispenses cash)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*Charging an account for good service or cash*

**Re claim 9 & 29:** Zingher discloses:

*Account transaction occurs at a point selected from:*

*Point of distribution, (see Zingher, Figure 1, – it is inherent that an ATM location is a point of distribution)*

*(The below item may also be describe in the prior art however, only one reference is sufficient to reject the claim.)*

*Point of sale,*

*The internet*

*A telephone*

**Re claim 10, 30 & 44:** Zingher discloses:

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*Comparing first response PIN with at least two stored PINs (see Zingher, Figure 5, item 55)*

*Confirming the first response PIN matches one of at least two stored PINs (see Zingher, Figure 5, item 55)*

*Determining whether PIN is normal or duress PIN (see Zingher, Figure 5, as indicated from the arrows from item 55)*

**Re claim 11 & 31:** Zingher discloses:

*If First response normal*

*Authorize transaction (see Zingher, Figure 5, item 60)*

**Re claim 12 & 32:** Zingher discloses:

*If First response normal*

*Check if suspected unauthorized used (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)*

*Receive third response indicated whether refusal is due to suspected unauthorized use (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)*

**Re claim 13 & 33:** Zingher discloses:

*Unauthorized use is selected from fraud, stolen, transaction card (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)*

**Re claim 14 & 34:** Zingher discloses:

*Send instruction if refusal is due to unauthorized use (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)*

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**Re claim 15 & 35:** Zingher discloses:

*Third electronic response indicates unauthorized use*

*Retrieve vendor preferences*

*Notify authorities as listed in vendor preferences*

*(see Zingher, Figure 5, item 70 + 60 – it is inherent that “procedure as usual” would include the “usual checks”)*

**Re claim 16, 36 & 45:** Zingher discloses:

*If duress PIN triggered, remedial action comprises: retrieving account holder preferences, Notifying authorities, Sending instructions to vendor (see Zingher, Figure 5, item 70)*

**Re claim 17, 37 & 46:** Zingher discloses:

*Contact account holder comprises: retrieving address, contact address, requesting account holder to provide PIN (see Zingher, Figure 5, item 70)*

**Re claim 18, 38 & 46:** Zingher discloses:

*Inform account holder of pending transaction, information account holder of location and amount (see Zingher, Figure 5, item 70)*

**Re claim 19 & 39:** Zingher discloses:

*Contact address is selected from telephone, mobile, pager, internet, email, intranet (see Zingher, Figure 5, item 70)*

### ***Response to Arguments***

Applicant's arguments filed 2/13/07 have been fully considered but they are not persuasive.



In particular, and respect to Claim 1 the Applicant argued 1<sup>st</sup>: prior art rejection of step 1 and 2 of claim 1 is inconsistent.

The Examiner refutes the argument made by the Applicant and draws the attention to Zingher Figure 7 items 50, 55 or 65). The vendor request authorization – this is clearly inherent that with the pin authorization would need to take place and this is not inconsistent with asking the account holder for authorization – this is what happens at an ATM machine. Perhaps the applicant is trying to say that the vendor receives a first pin and first account number from a user they believe to be fraudulent and they request the system to contact the card holder and get a second pin. It is assumed that in step 1 “receiving a first request from a vendor to authorize” is a normal part of the process when the vendor receives an account and pin. If this step happens after a first account and pin are received and step 3 is a second pin clarification is needed. As the claim currently stands it reads on the prior art.

Applicants argued 2<sup>nd</sup>, “verifying” does not disclose, “receiving”

The Examiner refutes the argument made by the Applicant and draws the attention to Zingher, Figure 7, Item 50 and 55. First they receive “access number entered” then they verify “correct pin”

Applicants argued 3<sup>rd</sup>, claim 3 examiner did not point out that the “first request” would include account number, etc.

The Examiner refutes the argument made by the Applicant and draws the attention to Zinger, an ATM card contains this information and it is inherent.

#### ***Contact Information***

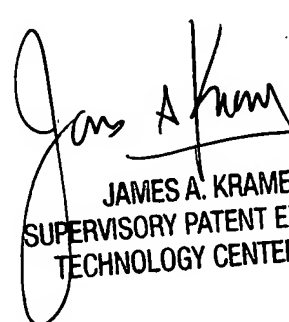
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

 4/27/07  
JAMES A. KRAMER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600